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September 17, 1997

EX-100-1000000000

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**EX PARTE**

William F. Caton  
Acting Secretary  
Federal Communications Commission  
Mail Stop 1170  
1919 M Street, N.W. , Room 222  
Washington, D.C. 20554

**RECEIVED**

SEP 17 1997

FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

Dear Mr. Caton:

Re: WT Docket No. 97-82, Competitive Bidding

Today, Wayne Watts, General Attorney, SBC Communications, Inc. and I met with Jackie Chorney, Senior Advisor to Chairman Hundt, David R. Siddall, Legal Advisor to Commissioner Ness, Marsha J. MacBride, Legal Advisor to Commissioner Quello, Mark Bollinger, Legal Advisor to the Chief, E. Rachel Kazan, Acting Chief, Auctions Finance and Market Analysis Branch, Auctions Division, and David E. Shiffrin, Senior Counsel, FDIC, detailed to the Auctions Division, Wireless Telecommunications Bureau, concerning the issues summarized in the attachment. We are submitting two copies of this notice in accordance with the Commission's rules.

Please stamp and return the provided copy to confirm your receipt. Please contact me should you have any questions.

Sincerely,

Attachment

cc: M. Bollinger  
J. Chorney  
E. Rachel Kazan  
M. MacBride  
D. Shiffrin  
D. Siddall

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**EX PARTE PRESENTATION  
OF  
SBC COMMUNICATIONS INC.**

**WT DOCKET NO. 97-82  
IN THE MATTER OF AMENDMENT OF PART 1  
OF THE COMMISSION'S RULES -  
COMPETITIVE BIDDING PROCEEDING**

**SEPTEMBER 17, 1997**

## **THE FCC'S INITIAL RULES FAITHFULLY FOLLOW CONGRESS POLICY GOALS**

- Congress' goals were to:
  - Add more competition in the wireless arena by making available additional spectrum
  - Encourage diversity in ownership of wireless spectrum through special rules to facilitate bidding by small businesses

## **THE FCC MET CONGRESS' GOALS BY:**

- Setting aside C and F Blocks with strict eligibility requirements
- Bidding Credits
- Installment Payments
- Lower than market interest rates
- CONTRAST TO A AND B BLOCK AUCTIONS WHICH REQUIRED LARGE UP FRONT PAYMENTS AND CASH PAYMENTS FOR LICENSES SHORTLY AFTER THE LICENSE APPLICATIONS WERE APPROVED

## **THE FCC SHOULD STAY THE COURSE**

- Strict eligibility requirements for C Block Licenses must be maintained
- This includes new auctions
- Restrictions on transfers to entities which would not qualify as designated entities in their own right

## **SBC SUPPORTS COMMISSION'S GOALS**

- Supports extending financial payments for C Block Licensees
- Continue to encourage diversity of ownership of Spectrum
- Add competition to the wireless market
- Improve the prospects that C and F Block Licensees will obtain external financing to rapidly construct competitive networks
- Avoid defaults/bankruptcy and lengthy litigation which would delay the construction of C Block authorizations

- The FCC should hold the Licensees to their original bids and not reduce the principal or accumulated interest due
- Protect and preserve the integrity of future FCC auctions
- Avoid litigation from those who dropped out of auction as prices got too high
- Avoid litigation from past auction winners who have already paid for licenses

## **SBC 's CONCERNS**

- SBC, through Pacific Bell Mobile and Southwestern Bell Mobile were significant bidders in the auctions for A and B Block Broadband PCS Spectrum
- PBMS and SBMS together have paid hundreds of millions of dollars to the FCC for the licenses acquired
- In doing so, PBMS and SBMS supported with their dollars, the Commission's goals of adding competition to the wireless market
- Many other large corporations likewise participated in those auctions and paid for the licenses acquired



- The FCC in amending its Rules to facilitate the construction of licenses by C and F Block auction winners must strictly limit those who benefit from the Commission's relaxed Rules
- A number of non-Designated Entity ("DE") qualified companies are suggesting that the Commission should allow non-DE qualified companies to acquire C and F Block licenses quickly
- See Ex Parte Presentation of MCI Telecommunications Corporation filed on August 13, 1997 stating that, "Reducing the time after which a built out system could be transferred and relaxing ownership

restrictions. . . ." would help a small company in raising capital.

- Companies such as these who could have participated in A and B Block licenses should not now be able to obtain more favorable terms in either the acquisition of, or the payment for, Spectrum
- To prevent this, the FCC should:
  - Amend Section 1.2111(b)(1) by requiring C and F Block licensees to hold those licenses for greater than a 5 year period in order to take advantage of modified payments

- Strictly enforce the Commission's Unjust Enrichment provisions in Sections 1.2111, including:
  - the repayment of any bidding credits;
  - the prepayment of all unpaid principal;
  - accrued interest at the time of the closing of any transfer after the extended period.
- This payment should be made regardless of the amounts paid to the existing licensee and should be designed to insure that the Commission and the Federal Treasury is made whole should any non-DE qualified entity acquire C or F Block license

- Any re-auction of this Spectrum should be subject to the same strictly enforced Designated Entity qualification requirements.

- By following these concepts, the integrity of the FCC's auction Rules will be maintained, competition will be encouraged through the availability of funds to C and F Block licensees, Congress' and the FCC's goals of diversity of ownership can be maintained. The Federal Treasury will not lose any funds due to the Commission's efforts to advance these goals